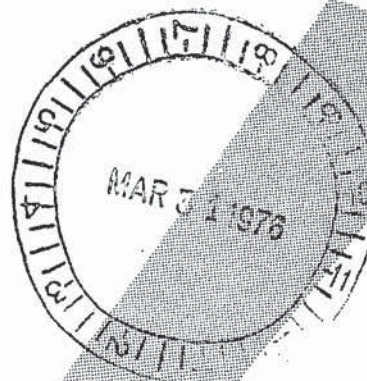


AMOSITE ASBESTOS
CROCIDOLITE ASBESTOS

THIS IS AN "AS-IS" SALE

Sale GOVERNMENT PROPERTY



NOTICE

PLEASE NOTE THE CHANGES TO THE
ATTACHED GENERAL TERMS AND CONDI-
TIONS FOR THE SALE OF STRATEGIC
AND CRITICAL MATERIALS (GSA FORM
2042 REV. 4/75)

PAGE No. 1 OF 16 PAGES OF
INVITATION No. MIN-265
DATED March 24, 1976

Sealed bids in TRIPLICATE
subject to the terms and conditions set forth here-
in, for the purchase and removal of the Govern-
ment-owned property listed in this Invitation, will be
received until the time, date, and at the place indicated
below, and then publicly opened.

Local Time at the place
TIME OF OPENING 11:15 A M, of bid opening
DATE OF OPENING See Page 3 19
PLACE OF OPENING GSA Bid Room 1701, Regional Office Bldg.
7th and D Streets, S.W., Washington, D.C. 20407
BID DEPOSIT OF 5 % OF TOTAL AMOUNT OF BID IS REQUIRED.

INSPECTION INVITED BETWEEN 9:00A M AND 3:00P M Local Time
Monday through Friday (Government Holidays excepted)
ARRANGE WITH See Information and Instructions, Pages 5 and 6

ISSUED BY General Services Administration, Office of Stockpile Disposal
ADDRESS 2000 L Street, NW, Room 602, Washington, D.C. 20036
PROPERTY LOCATED AT See Exhibit "A", Page 10

**SALE OF GOVERNMENT PROPERTY
BID AND AWARD**

MIN-265

Page 2 of 16

Amosite and Crocidolite Asbestos

BID

(This Section to be completed by the Bidder)

DATE OF BID

19__

In compliance with the Invitation identified on the cover page hereof, and subject to all the General Sale Terms and Conditions (GSA Form 2042, Rev. 4/75)*, and any Special Conditions contained in the Invitation, all of which are incorporated as a part of this Bid, the undersigned offers and agrees (as set forth in Condition No. 3 GSA Form 2042), if this Bid be accepted within 15 calendar days

after date of Bid opening, to purchase and pay for any or all of the items or lots of property listed on the attached Item Bid page(s) 11 and 12 (and, if a detailed description of property is furnished with this Invitation, as more particularly set forth therein) upon which prices are bid, at the price set opposite each item or lot, and unless otherwise specified in the description or in any Special Terms and Conditions, to remove the property see page 8, 3.F, after notice of acceptance by the Government. The total amount bid is \$ 51,750.00 and attached is the required bid deposit in the form of

certified check \$ 2,587.50, in the amount of \$ 2,587.50

* Refers to General Terms and Conditions for the Sale of Strategic and Critical Materials.
(Envelopes containing bids must be sealed and marked on the face with the name and address of the Bidder, the Invitation number and the date and hour of opening.)

BIDDER REPRESENTS: (Check appropriate boxes)

1. That he ☒ is, ☐ is not, a small business concern. (See Standard Form 2042 for definition of small business and small business classifications referred to in 2, hereinbelow.)
2. If Bidder represents he is a small business concern, he further represents his applicable classification as:
(Check one) ☐ (1); ☐ (2); ☒ (3); ☐ (4).
3. (a) That he ☐ has, ☒ has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the Bidder) to solicit or secure this contract, and (b) that he ☐ has, ☒ has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the Bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, 41 CFR 101-45.313). NOTE: all bidders must complete items 1 and 3 above; small business complete 2.

NAME AND ADDRESS OF BIDDER (Street, city, zone, and State. Type or print)

Huxley Barter Corporation
Time & Life Bldg.
Rockefeller Center, N.Y., N.Y.
TELEPHONE NO.

SIGNATURE OF PERSON AUTHORIZED TO SIGN BID

SIGNER'S NAME AND TITLE (Type or print)

Murray Siegel, Vice President

ACCEPTANCE BY THE GOVERNMENT
(This Section for Government use only)

DATE OF ACCEPTANCE

JUL 21 1976

19__

ACCEPTED AS TO ITEMS NUMBERED

Part of Item No. 5, 150 short tons
DX at \$345.00 per short ton

UNITED STATES OF AMERICA

BY C. A. COOPER
(Contracting Officer)

TOTAL AMOUNT

\$51,750.00

CONTRACT NUMBER

GS-00-DS-(S)-00410

TITLE OF CONTRACTING OFFICER

Acting Chief, Minerals and Ores Branch
Stockpile Disposal Division

WARNING OF HEALTH HAZARD

ASBESTOS IS HARMFUL and may cause Delayed Lung Injury. Inhalation may cause asbestosis, pleural or peritoneal mesothelioma, or lung cancer. DO NOT BREATHE DUST. Handle and use only with adequate ventilation and approved respiratory protective devices.

INFORMATION AND
INSTRUCTIONS TO BIDDERS

1. INTRODUCTION

- A. The Office of Stockpile Disposal, General Services Administration, will receive bids each month for the purchase of excess asbestos held in storage at the various locations listed in Exhibit "A" attached hereto. Bids will be received under the terms and conditions of this invitation and will be publicly opened. The first bid opening will be held at 11:15 a.m., April 13, 1976, and succeeding bid openings will be held at 11:15 a.m. (local time at place of bid opening) on the second Tuesday of each month thereafter. In the event the second Tuesday of any month is a holiday, the bid opening for that month will be held at 11:15 a.m. on the next succeeding Government business day. These scheduled bid openings may be changed or canceled. In such an event, timely public notices will be given to prospective bidders and this invitation for bids will be amended appropriately. Further information regarding these offerings may be obtained by telephoning area code 202, 634-6543.
- B. Amosite Asbestos - Of the total quantity listed herein, approximately 10,000 short tons are available for disposal under this invitation and will be sold "AS-IS".
- C. Crocidolite Asbestos - The total quantity of 288 short tons listed herein is available for disposal under this invitation and will be sold "AS-IS".
- D. Government records indicate that, at the time of purchase, the asbestos conformed to the quantities and other data listed in Exhibit "A". The Government believes that the material so conforms; however, no warranty of guarantee is made thereof. (See Condition 2 of the General Terms and Conditions for the Sale of Strategic and Critical Materials, GSA Form 2042, made a part hereof.)
- E. The material listed in Exhibit "A" is stored in burlap bags which are either overbagged into plastic bags and sugar stacked in the warehouse or in the case of the Baton Rouge Depot, on pallets and spiral wrapped ready for pallet delivery. The respective type of storage is indicated in the exhibit. For better control of potential contamination and for ease of handling, all material contained in box pallets shall be sold and outloaded as presently stored in the box pallets. The asbestos in cardboard containers shall also be sold and outloaded in their present containers.

As for the material which is sugar stacked the purchaser may, if he so desires, palletize the material prior to shipment from the depot with all costs for material and labor for palletizing for the purchaser's account. All corresponding requirements of the Environmental Protection Agency and the Department of Transportation shall also be strictly adhered to by the Contractor as they may apply to such palletizing.

2. BID DEPOSIT

- A. A bid deposit of five percent(5%) of the total amount of the bid is required by this invitation and must accompany the bid. Failure to submit the required bid deposit in the amount and form required shall result in rejection of the bid. See INSTRUCTIONS TO BIDDERS, paragraph no. 1, GSA Form 2042.
- B. Any bid deposit received after the time set for opening of bids will be considered in the same manner as a late bid.

3. SUBMISSION, MODIFICATION, AND WITHDRAWAL OF BIDS

- A. All bids must be submitted on the bid forms provided to each bidder and must be fully executed in triplicate. Bids made by letter or telegram will not be considered responsive to this Invitation for Bids.
- B. Bids and modifications thereof by mail shall be enclosed in sealed envelopes and addressed to:

Bid Room
General Services Administration
Regional Office Building - Room 1701
7th and D Streets, S.W.
Washington, D.C. 20407

with the name and address of the bidder in the upper left corner and the following information in the lower left corner on the face of the envelope:

Invitation Number : MIN-265
Opening Date : (Insert date)

- C. Modifications or withdrawals of bids may be made by letter only, addressed as described above, and in accordance with Condition 19 of GSA Form 2042.
- D. All bidders submitting bids in response to this Invitation for Bids will be sent new bidding sets after each bid opening. Additional copies of the bidding form will be supplied upon request. A news release will be issued after each sale announcing the awards.

4. EQUAL HIGH BIDS

When two or more bids are high and equal in all respects, awards shall be made, first, to a holder of an unsatisfied defense-rated order for the amount of such unsatisfied defense-rated order, and second, by drawing of lots by the Government among the remaining equal high bidders. For consideration under this instruction for bidders, bidders that hold unsatisfied defense-rated orders must submit with their bids the defense contract number, defense priority rating and pounds of asbestos required under the unsatisfied defense-rated order(s).

5. INSPECTION

Article 1 of GSA Form 2042, General Terms and Conditions for the Sale of Strategic and Critical Materials, is hereby deleted and the following substituted therefor:

- A. Due to health hazards, bidders are urged and cautioned not to request inspection of asbestos materials. However, a prospective bidder may, at his sole cost and expense, examine the condition of bags and marking of material proposed for disposal by presentation of this invitation for bid to the depot manager at GSA installations. Persons who are not U.S. Citizens must make arrangements with the Chief, Minerals and Ores Branch, Stockpile Disposal Division, GSA, 2000 "L" Street, NW., Room 602, Washington, D.C. 20036 (Phone Area Code 202, 634-6543) at least ten calendar days before examination may be made.
- B. See Condition 2, GSA Form 2042, General Terms and Conditions for the Sale of Strategic and Critical Materials. Inspection, as indicated in paragraph A. above, may be performed at the storage locations between the hours 9:00 a.m. and 3:00 p.m., local time, Monday through Friday (Government holidays excluded), by making arrangements with the GSA-FSS regional offices specified below:

ITEM NO.

CONTACT

1 and 2

Region 2
26 Federal Plaza
New York, NY 10007
Tel. Area Code 212, 264-2653

8

Region 3
7th and D Streets, SW
Washington, D.C. 20407
Tel. Area Code 202, 962-3466

3, 4, 6 and 7

Region 5
230 South Dearborn Street
Chicago, Illinois 60604
Tel. Area Code 312, 353-5560

ITEM NO.

5

CONTACT

Region 7
819 Taylor Street
Fort Worth, Texas 76102
Tel. Area Code 817, 334-3447

6. MINIMUM QUANTITY

The minimum bid shall be for five short tons from any one storage location except for those items which must be sold on a PRICE FOR LOT basis. Bids for a lesser quantity may be deemed nonresponsive. Unless the bidder specifies otherwise in his bid, the Government reserves the right to make an award for a quantity less than the quantity shown in the bid at the unit price bid.

7. AUTHORITY

This material is authorized for disposal pursuant to Public Law 92-104, dated August 11, 1971, Public Law 89-463, dated June 21, 1966, and 38 H.C.R. 320.

The General Terms and Conditions for the Sale of Strategic and Critical Materials (GSA Form 2042, Rev. 4-75) are incorporated herein and made a part of this contract, and shall govern to the extent that they are not modified by, or in conflict, or inconsistent with any other terms or conditions of this contract.

SPECIAL TERMS AND CONDITIONS

1. COMPLIANCE CERTIFICATION

The Purchaser hereby agrees and certifies that the material sold hereunder will be handled, removed, transported and used in compliance with all applicable Federal, State or local safety and health laws and regulations, latest revisions, including without limitation, the standards set forth for ASBESTOS in Section 1910.93a of the regulations issued pursuant to the Occupational Safety and Health Act of 1970; 29 U.S.C. Sec. 655 (1970), as implemented by 29 C.F.R. Part 1910 (39 Federal Register 23502-23828, June 27, 1974).

2. WEIGHING

Paragraph (b) under Condition 11 of GSA Form 2042 (Rev. 4-75) shall apply except for those items which will be sold on a "price for lot" basis. Weights determined shall be evidenced by a weight certificate in the form customarily furnished by GSA. Weights determined by these certificates and/or records shall be final and shall be the basis for payment for material delivered. The purchaser or his representative may witness the weighing, if performed.

3. SHIPPING INSTRUCTIONS, OUTLOADING AND DELIVERY

A. The Purchaser shall notify the Regional Inspection Office, GSA-FSS serving the area in which the stockpiled material for disposal is located fifteen (15) calendar days prior to desired date of shipment.

B. Shipping Instructions

- (1) The Purchaser shall furnish the instructions and information required by Condition 5 of the General Terms and Conditions for the Sale of Strategic and Critical Materials, GSA Form 2042, to the General Services Administration, FSS, Office of Property Management, Stockpile Disposal Division (FJ00), Washington, D.C. 20406.
- (2) The shipping instructions shall also include corresponding instructions as appropriate, regarding the application of warning labels and/or conveyance markers together with any related notations to be placed on the respective shipping documents. In order to assure orderly release of the material from the storage depot, the Purchaser shall mail a copy of his shipping instructions to the respective storage depot together with a sufficient supply of warning labels and/or conveyance markers as may be required.

C. Outloading of material will be performed by and at the expense of the Government. The Government will deliver the material f.o.b. carrier's conveyance at the storage locations shown in, Exhibit A.

- D. The Government will, if requested, order carrier's conveyance of the type and kind specified by the Purchaser, compatible with those indicated in Exhibit A, but will assume no responsibility if such conveyance is not available. All flat bed trucks must be equipped with tarpaulins to adequately cover the material while in transit.
- E. The Government reserves the right to schedule outloading of the material on the basis of priority of receipt of Purchaser's shipping instructions.
- F. The length of the delivery period will be based on the quantity of material awarded to each purchaser. The following delivery periods will begin on the date of acceptance of the bid by the Government.

<u>Quantity in Short Tons</u>		<u>Delivery Period in Calendar Days</u>
Up to	49	60
50 -	99	90
100 -	999	140
1,000 -	2,999	180
Over	3,000	365

- G. Storage charges shall be assessed on all material remaining in Government storage after the free removal period. Two dollars (\$2.00) per short ton or fraction thereof, until removal, shall constitute the reasonable storage charge provided for in Condition 8 of The General Terms and Conditions for the Sale of Strategic and Critical Materials, GSA Form 2042. Payment of storage charges shall be made by the Purchaser promptly upon receipt of invoice from the Government.

4. PAYMENT

- A. Payment of the full purchase price for the material sold hereunder shall be made in accordance with the provisions as set forth in Condition 4 "Payment" of the General Terms and Conditions, GSA Form 2042.
- B. Delete paragraph 4(d), Payment, from the General Terms and Conditions for the Sale of Strategic and Critical Materials, GSA Form 2042 (Rev. 4-75) and substitute the following:
4. (d)(1) Under a contract of less than \$100,000, the Government reserves the right to apply any bid deposit made under the invitation by the purchaser against the total amounts due to the Government under the contract and subject to Condition 23 below, will return any unused portion of such bid deposit.
- (2) Under contracts of \$100,000 or more, the Government reserves the right to apply any bid deposit made under the invitation by the purchaser against and up to 50% of the total amount due the Government under the contract. Subject to Condition 23 below, any bid deposit over 50% of the total amount due the Government under the contract will be promptly returned to the purchaser, provided, that such excess bid deposit exceeds \$10,000. Otherwise, the amount less than \$10,000 of such excess bid deposit will also be applied to the amount due the Government under contract.

- (3) Subject to Condition 23 below, deposits accompanying bids which are not accepted will be promptly returned.

6. LIQUIDATED DAMAGES

The liquidated damage formula specified in accordance with Condition 9 of GSA Form 2042 is 8% of the purchase price of both amosite and crocidolite asbestos on which the default has occurred.

7. INTEREST RATE

The interest rate specified in accordance with Condition 24 of GSA Form 2042 is 7% per annum on the unpaid balance.

8. OTHER RESPONSIBILITIES OF CONTRACTOR (PURCHASER)

- A. The Contractor (Purchaser) assumes full responsibility for all injury or damage to persons or property, including Government property and materials, occasioned through the duties and work to be performed under this contract resulting in whole or part from the negligent acts or omissions of contractor, any subcontractor, or any employee, agent, or representative of contractor or subcontractor. The Government shall in no case be liable or responsible for injury or damage to any person or property, including contractor's or any subcontractor's personnel or property, resulting from duties or work performed under this contract.

B. Hold Harmless and Indemnification Agreement

The Contractor (Purchaser) shall save and hold harmless and indemnify the Government against any and all liability, claims, and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any property (Government or others) occurring in connection with or in any way incident to or arising out of the occupancy, use, duties, service, operations or performance of work in connection with this contract, resulting in whole or in part from the negligent acts or omissions of contractor, any subcontractor, or any employee, agent, or representative of contractor or any subcontractor.

C. Insurance

The Contractor (Purchaser) agrees to procure and maintain, and require any subcontractor to procure and maintain, during the term of this contract, or any extension thereof, adequate automobile and general public liability and property damage insurance covering all duties and work to be performed under this contract, insuring against any third party claim for bodily injury or property damage, and Workman's Compensation and Employer's Liability insurance for protection of employees. The automobile and general public liability insurance shall provide limits of liability for bodily injury of not less than \$100,000 for each person and \$500,000 for each occurrence and property damage limits of not less than \$100,000 for each accident.

AMOSITE ASBESTOS

<u>ITEM NO.</u>	<u>STORAGE LOCATION</u>	<u>TYPE OF CONVEYANCE</u>	<u>GRADES AND QUANTITIES (SHORT TONS)</u>	
			<u>D3</u>	<u>DX</u>
1.	GSA-FSS Binghamton Depot Binghamton, New York (Served by EL)	T/R	686(B)	
2.	GSA-FSS Somerville Depot Royce, New Jersey (Served by LV)	T/R	11,843(B)	92(B)
3.	GSA-FSS Marion Depot Marion, Ohio (Served by PC)	T/R	656(B)	698(B)
4.	GSA-FSS Casad Depot New Haven, Indiana (Served by NW)	T/R	4,128(B)	791(B)
5.	GSA-FSS Baton Rouge Depot Baton Rouge, Louisiana (Served by ICG at SHARP)	T/R		850 (P)
6.	GSA-FSS Erie Depot Port Clinton, Ohio	T Only	*4(B)	*13(B)

CROCIDOLITE ASBESTOS

<u>ITEM NO.</u>	<u>STORAGE LOCATION</u>	<u>TYPE OF CONVEYANCE</u>	<u>GRADES AND QUANTITIES (SHORT TONS)</u>	
			<u>So. African</u>	<u>Run of Mine</u>
			<u>S</u>	
7.	GSA-FSS Casad Depot New Haven, Indiana (Served by NW)	T/R		270(B)
8.	GSA-FSS Curtis Bay Depot Curtis Bay, Maryland (Served by BO)	T/R	*18(S,O)	

Codes: T - Truck
R - Rail
(S) = Sugar Stacked
(B) = Box Pallets
(O) - Overpackaged into Plastic Bags
* - Price for the lot
(P) - On pallets, spiral wrapped, ready for pallet delivery.

**SALE OF
GOVERNMENT PROPERTY
ITEM BID PAGE**

PAGE
11
of
16

INVITATION NO.

MIN-265

TO BE SUPPLIED BY BIDDER

ITEM NO.	ARTICLES FOR SALE				QUANTITY (No. of Units)	UNIT OF MEASURE	PRICE BID PER UNIT	TOTAL PRICE BID	
								DOLLARS	CENTS
NOTE TO BIDDER: FILL IN ITEM NO., STORAGE LOCATION, TYPE, GRADE, QUANTITY, PRICE BID PER UNIT AND TOTAL PRICE BID									
ITEM NO.	STORAGE LOCATION	TYPE	GRADE	QUANTITY	SHORT TON	PRICE BID PER UNIT	TOTAL PRICE BID		
5	Baton Rouge	Amosite	DX	150	X	\$345.00	\$51,750	00	

BIDDER IS CAUTIONED TO INSPECT THE PROPERTY

NAME OF BIDDER (Type or print)

BIDDER'S NAME SHOULD APPEAR ON EACH ITEM BID PAGE CONTAINING A BID.

HUXLEY BARTER CORPORATION

GENERAL TERMS AND CONDITIONS FOR THE SALE OF STRATEGIC AND CRITICAL MATERIALS

INSTRUCTIONS TO BIDDERS:

1. *Bid Deposit:* Where a bid deposit is required by the invitation, such deposit must accompany the bid and be furnished in cash, or by postal or express money order; cashier's, certified or traveler's check; or a combination thereof; made payable to the General Services Administration. Letter of credit shall not be used to cover the bid deposit.

2. *Preparation of Bids:* Bids shall be filled out in ink, indelible pencil, or by typewriter, with all erasures, strikeouts, and corrections initialed in ink or indelible pencil.

1. INSPECTION:

The bidder is invited, urged, and cautioned to inspect the material to be sold prior to submitting a bid. It will be available for inspection at the places and times specified in the invitation. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.

The bidder may inspect the material proposed for disposal by presentation of this invitation to the Commanding Officer at military installations or the depot manager at General Services Administration installations. However, when any material offered for disposal is stored at other locations, the bidder must make arrangements with the Director, Stockpile Storage Division, FJO, Federal Supply Service, General Services Administration, Washington, D.C. 20406.

2. CONDITION OF MATERIAL:

Unless otherwise specifically stated in the invitation, all material listed therein is offered for sale "as is." The description of the material is based on the best information available to the Government. However, the Government makes no warranty, express or implied, as to quantity, kind, character, quality, weight, size, or description of any of the material, or its fitness for any use or purpose. Except as provided in Conditions 7 below, or 10 below, no request for adjustment in price or for rescission of the sale will be considered. *This is not a sale by sample.*

3. CONSIDERATION OF BIDS:

The bidder agrees that his bid will not be withdrawn within the period of time specified for the acceptance thereof following the opening of bids (60 calendar days if no period be specified by the Government or by the bidder, but not less than 10 calendar days in any case) and that during such period his bid will remain firm and irrevocable. The Government reserves the right to reject any or all bids, to waive any technical defects in bids, and, unless otherwise specified by the Government, or by the bidder, to accept any one item or group of items in the bid, as may be in the best interest of the Government. Unless the invitation otherwise provides, bids may be submitted on any or all items. However, unless the invitation otherwise provides, a bid covering any listed item must be submitted on the basis of the unit specified for that item and must cover the total number of units designated for that item. In case of error in the extension of prices, unit prices will govern.

4. PAYMENT:

The purchaser agrees to pay for material awarded to him at the price or prices quoted in his bid. Payment of the full purchase price, subject to any adjustment pursuant to

Condition 10 below, must be made by one of the methods set forth below. The method of payment under (a) or (b) below will be determined solely at the discretion of the Government.

(a) When the Government has approved an extension of credit, then promptly after passage of title to the purchaser of any quantity of material sold hereunder, the Government will invoice the purchaser therefor at the unit price or prices specified in the contract, and the purchaser shall pay to the Government the full amount of each invoice promptly upon receipt of such invoice. If the purchaser under this contract or any other contract with the Government, fails to make prompt payment upon receipt of invoice, the Government solely at its discretion may revoke such extension of credit.

(b) When the Government has not approved an extension of credit, payment of the full purchase price must be made within the time specified for removal and prior to delivery of any of the material. However, if any adjustment is made pursuant to Condition 10 below, then payment must be completed immediately upon notice of such adjustment. The balance of the purchase price, after applying the total bid deposit made by the purchaser under the invitation (or otherwise the full purchase price), shall be paid to the General Services Administration, in cash, or by certified check, cashier's check, traveler's check, bank draft, or postal or express money order, made payable to the General Services Administration. When the Government has not approved an extension of credit and more than one shipment is made hereunder, the purchaser shall pay to the Government prior to delivery an amount equal to the portion of the purchase price for any portion of the material scheduled for delivery. If bid deposit has been made, a pro rata amount of such deposit will be applied against each shipment.

(c) The purchaser may elect to furnish, within ten days after notice of award, an irrevocable sight commercial letter of credit issued by an acceptable U.S. Bank in favor of GSA, with terms and conditions acceptable to General Services Administration. Such letters of credit shall provide for drafts to be drawn, accompanied by documents evidencing partial delivery in amounts equal to the portion of the purchase price after applying the applicable pro rata amount of the bid deposit.

(d) The Government reserves the right to apply any bid deposits made under the invitation by a bidder against any amounts due to the Government under a contract awarded to him hereunder and as provided in Condition 23 below. Except as provided in Condition 23, in those instances where the total sum due to the Government from the purchaser on a contract awarded to him under the invitation is less than the total amount deposited with his bid, the difference will be promptly refunded to him. Also, deposits accompanying bids which are not accepted will be promptly returned.

(e) Payments by the purchaser shall be accompanied with identifying information including the contract number, invoice number, and a description of the material purchased, and shall be addressed to General Services Administration, Finance Division 3BCCRC, 7th and D Streets, S.W., Washington, D.C. 20407.

5. SHIPPING INSTRUCTIONS, OUTLOADING AND DELIVERY:

(a) When delivery is f.o.b. carrier's conveyance, the purchaser shall, at least 15 calendar days prior to the desired date of shipment, furnish the Government complete shipping and document distribution instructions and the necessary commercial bill of lading to accomplish shipment, including, but not limited to, designation of type and kind of conveyance, carrier routing, minimum load per conveyance, shipping schedule, and any other pertinent instructions. For shipment not via common carrier, instructions furnished shall also include the name of purchaser's duly authorized agent who will acknowledge receipt at the storage location of the material delivered by the Government and will furnish, prior to delivery, identification acceptable to the Government. Any expenses over and above those customarily required for normal loading shall be for the account of the purchaser.

(b) When sale hereunder is on a "where is" basis, the purchaser shall, at least 15 calendar days prior to the desired date(s) of outloading, furnish to the Government the name of the agent performing the outloading and the scheduling of the outloading. The purchaser, his agent and employees shall at all times comply with all applicable rules and regulations existing at the storage depot. The purchaser shall remove all materials sold hereunder and shall leave the storage area in condition acceptable to the Government. The purchaser shall save and hold the Government harmless from any liability for or on account of any injury to the purchaser or to the purchaser's personnel, or others, and from any damage to or loss of the equipment or property of the purchaser, or others, caused by the removal operations of the purchaser.

(c) The instructions on (a) and (b), above, shall be addressed to Stockpile Storage Division, FJO, Federal Supply Service, General Services Administration, Washington, D.C. 20406.

(d) Outloading will be performed and pick-up must be accomplished between the hours of 8:30 A.M. and 2:30 P.M. local time, Monday through Friday, holidays excepted, to the extent that loading facilities and other commitments will permit.

6. TITLE:

Unless otherwise specified in the invitation, title to the material purchased hereunder shall pass to the purchaser upon delivery by the Government or as provided in Conditions 7 and 8 below.

7. RISK OF LOSS:

(1) Prior to passage of title to the purchaser, the Government will be responsible for the care and protection of the material, and any loss, damage, or destruction occurring during such period will be adjusted by the contracting officer.

(2) After passage of title, and prior to the date specified for removal, the Government shall be responsible only for the exercise of reasonable care for the protection of the material.

(3) After passage of title and after the date specified for removal of the material, or any extension approved in writing by the contracting officer, all risk of loss, damage, or destruction from any cause whatsoever, shall be borne by the purchaser.

8. REMOVAL OF MATERIAL:

The material shall be removed within the time specified in the invitation after notice of acceptance by the Government. If the purchaser fails to furnish the Government

with shipping instructions at least 15 calendar days prior to the last day of the contract delivery period specified herein, or fails to take delivery on or before the last day of such delivery period through no fault of the Government, title and risk of loss shall automatically pass to the purchaser as of the close of business on the last day of such delivery period. The Government will invoice the purchaser for all material remaining in storage on the last day of the contract delivery period. This provision shall not relieve the Government of its obligation to load such material in accordance with the provisions of Article 5(a), above. Storage charges as specified elsewhere in this invitation shall be assessed on all material remaining in Government storage after the last day of the delivery period.

9. DEFAULT:

If, after the award, the purchaser breaches the contract by failing to make payment as required by Condition 4 above, or by failing to remove the material as required by Condition 8 above, then the Government, at the discretion of the Contracting Officer, may send the purchaser a 15-day written notice of default (calculated from the date of mailing), and upon purchaser's failure to cure such default within that period (or such further period as the Contracting Officer may allow), the purchaser shall lose all right, title and interest which he might otherwise have acquired in and to the material as to which a default has occurred.

Further, if the purchaser fails to pay for or remove the material within the prescribed time for curing such default, the purchaser agrees that the Government shall be entitled to retain or collect the amount specified in the invitation as liquidated damages. It is understood and agreed to by the purchaser that such amount constitutes a reasonable forecast of the probable actual damages, including storage, maintenance, and other operating and administrative expenses, likely to be incurred by the Government as a result of the breach and the loss to the Government of the benefit of its bargain.

The Government, either in its original notice of default or in a separate subsequent written notice, shall apprise the purchaser that upon expiration of the period prescribed for curing the default the amount specified in the invitation will be retained or collected as liquidated damages.

If the purchaser otherwise fails in the performance of his obligations hereunder, the Government may exercise such rights and may pursue such remedies as are provided by law or under the contract.

10. ADJUSTMENT FOR VARIATION IN QUANTITY OR WEIGHT:

Unless otherwise specified in the invitation, when material is sold on a "unit price" basis, the Government reserves the right to vary the quantity or weight delivered by 10% from the quantity or weight listed in the invitation, and the purchaser agrees to accept delivery of any quantity or weight within these limits. The purchase price will be adjusted upward or downward in accordance with the unit price and on the basis of the quantity or weight actually delivered. No adjustment for variation will be made when material is sold on a "price for lot" basis.

11. WEIGHING:

Unless otherwise provided in the invitation, weight of the material sold hereunder shall be determined at the Government's expense by one of the following methods which is specified elsewhere in the invitation:

(a) At the Government's option:

(1) Draft weigh the material on platform scales, prior to loading into carrier's conveyance, or,

(2) Light and heavy weigh the conveyance on Government-approved scales at the storage facilities, nearest railroad scales, and/or public scales for trucks.

An appropriate allowance for any tare weight shall be established by the Government.

(b) Weights as marked on containers, such as drums, bags, boxes, etc., shall govern for net and tare. If the containers are not so marked, producer's weights of record with the Government shall be used or the net weight shall be determined by draft weighing on Government platform scales at the storage facility with an allowance for the established tare weight.

(c) Material shall be gross weighed in railroad cars or trucks with stenciled tare weight of such railroad cars and actual weight of trucks deducted to arrive at the net weight of the material.

Any free moisture contained in the material shall be considered as such material. Net weights determined as herein specified shall control. Weight certificates will be supplied by the Government and shall be final for payment purposes. The purchaser or his agent may witness weighing performed on Government scales.

12. EXCUSABLE DELAYS:

(a) In the event either party should be prevented from performing under this contract by reason of any cause beyond its control and without its fault or negligence, including but not restricted to acts of God or of the public enemy, sovereign acts of the United States, acts of a foreign Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos and unusually severe weather, performance under the contract shall be suspended in whole or in part until such cause ceases to exist and thereafter the time for fulfillment of the contract shall be extended by the length of time during which such cause prevented performance under the contract.

(b) If, prior to outloading, any excusable delay condition, as defined in this Condition 12, exists which would prevent receipt of the material at the plant of the consignee, the provisions of this Condition 12 shall apply, provided, however, that such provisions shall apply only when the identity of the consignee is known to the Government prior to commencement of the excusable delay condition.

(c) In order for the provisions of this Condition 12 to become operative, the party to the contract affected by the excusable delay condition must furnish the other party with written notice of the nature and extent of the excusable delay condition promptly after the commencement thereof, but in any event prior to outloading of the material from the storage location from which it is to be shipped. Written notice shall be furnished the other party when the excusable delay condition ceases to exist.

13. LIMITATION ON GOVERNMENT'S LIABILITY:

Except for transportation charges, when a return of material at Government cost is authorized by the Government, the measure of the Government's liability in any case where liability of the Government to the purchaser has been established shall not exceed refund of such portion of the purchase price as the Government may have received.

14. ORAL STATEMENTS AND MODIFICATIONS:

Any oral statement or representation by any representative of the Government, changing or supplementing this invitation or resulting contract or any condition thereof, is unauthorized and shall confer no right upon the purchaser.

15. COVENANT AGAINST CONTINGENT FEES:

Purchaser warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the purchaser for the purpose of doing business. For breach of this warranty, the Government shall have the right to annul this contract without liability or, at its option, to recover from the purchaser the amount of such commission, percentage, brokerage, or contingent fee, in addition to the consideration herein set forth.

16. OFFICIALS NOT TO BENEFIT:

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, unless it be made with a corporation for its general benefit.

17. DISPUTES:

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the purchaser. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the purchaser mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Administrator of General Services. The decision of the Administrator, or his duly authorized representative for the determination of such appeals, shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the purchaser shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the purchaser shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: Provided, that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

18. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

(a) By submission of this bid or proposal, each bidder or offeror certifies, and in the case of a joint bid or proposal each party thereto certifies as to its own organization, that in connection with this sale:

(1) The prices in this bid or proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices, with any other bidder or offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder or offeror and will not knowingly be disclosed by the bidder or offeror prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other bidder or offeror or to any competitor; and

(3) No attempt has been made or will be made by the bidder or offeror to induce any other person or firm to submit or not to submit a bid or proposal for the purpose of restricting competition.

(b) Each person signing this bid or proposal certifies that:

(1) He is the person in the bidder's or offeror's organization responsible within that organization for the decision as to the prices being bid or offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) (i) He is not the person in the bidder's or offeror's organization responsible within that organization for the decision as to the prices being bid or offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and

(ii) He has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

(c) This certification is not applicable to a foreign bidder or offeror submitting a bid or proposal for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

(d) A bid or proposal will not be considered for award where (a)(1), (a)(3), or (b) above, has been deleted or modified. Where (a)(2) above, has been deleted or modified, the bid or proposal will not be considered for award unless the bidder or offeror furnishes with the bid or proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

19. MODIFICATION OR WITHDRAWAL OF BIDS:

Bids may be modified or withdrawn by written or telegraphic notice and a bid also may be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid. Where a bid deposit is required by the invitation, any modification which increases the amount of a bid already submitted or which submits bids on items not previously bid upon must provide for an increased bid deposit.

20. CONSIDERATION OF LATE BIDS, MODIFICATIONS, OR WITHDRAWALS:

Bids and modifications or withdrawals thereof, must be in the possession of the Contracting Officer by the time and date set for bid opening. Any bid, modification, or withdrawal received after the time and date set for bid opening will not be considered except for delay attributable to personnel of the sales office or their designees. In no event will handcarried bids, modifications, or withdrawals be considered if delivered to the Contracting Officer after the time and date set for bid opening. However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received prior to award and may be accepted.

21. AWARD OF CONTRACT:

The contract will be awarded to that responsible bidder whose bid conforming to the invitation will be most advantageous to the Government, price and other factors considered. A written award mailed (or otherwise furnished) or, a telephonic award if authorized, to the successful bidder

within the time for acceptance provided in the invitation shall be deemed to result in a binding contract without any further action by either party.

22. BID DEPOSITS:

Where a bid deposit is required by the invitation, a bidder must submit such deposit in the amount specified in the invitation which must be in the possession of the Contracting Officer by the time and date set for bid opening. Bid deposits shall be in the form prescribed in paragraph 1 of Instructions to Bidders. Any bid which is not timely supported by an acceptable bid deposit may be rejected as non-responsive. Any bid deposit received after the time and date of bid opening will be treated in the same manner as late bids, modifications, or withdrawals (Condition 20 above).

23. SETOFF OF REFUNDS:

The bidder or purchaser agrees that the selling agency may use all or a portion of any bid deposit or refund due him to satisfy, in whole or in part, any debts arising out of prior transactions with the selling agency.

24. INTEREST:

Notwithstanding any other provision of this contract, unless paid within 30 calendar days from the date of invoice or from the last day specified for removal of the material, whichever date is earlier, all amounts that become payable by the purchaser to the Government under this contract shall bear interest at the annual percentage rate as specified in this invitation for bids, from the date of such invoice until paid.

25. DEFINITIONS:

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Contracting Officer" means the person accepting the bid in whole or in part on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of the representative's authority.

(b) *Small Business:*

For this purpose, a small business concern is a concern which, together with its affiliates, falls within one of the classifications set forth in (c) below: is independently owned and operated; and is not dominant in its field of operation. (See Code of Federal Regulations, Title 13, Part 121, as amended, if additional information is desired.)

(c) *Small Business Classifications:*

(1) Any concern which is primarily engaged in manufacturing, if its number of employees does not exceed 500 persons provided, however, that a concern primarily engaged in SIC Industry 2911, petroleum refining, is small if its number of employees does not exceed 1,000 persons and it does not have more than 30,000 barrels-per-day crude-oil capacity from owned or leased facilities.

(2) Any concern which is primarily not a manufacturer (except as specified in subparagraph (3) of this paragraph), if its average annual receipts for its preceding 3 fiscal years do not exceed \$1 million.

(3) Any concern primarily engaged in the purchase of materials which are not domestic products, if its annual sales or annual receipts for its preceding 3 fiscal years do not exceed \$25 million.

(4) Certified as a small business concern by the Small Business Administration.